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On 03 February 2005, applicants filed the instant petition for revival accompanied by, *inter alia*, a transmittal letter for entry into the US national stage under 35 U.S.C. 371, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international

application as required by 35 U.S.C. 371(c)(2), an executed declaration as required by 35 U.S.C. 371(c)(4), and the petition fee of \$750.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage.

Applicant has satisfied items (1) and (3) and, as to item (4), since the application was filed after 08 June 1996, a terminal disclaimer is not required.

As to item (2), applicant's petition states that:

“At the time the application was abandoned, there were a number of patent applications being considered for cancellation and due to a miscommunication, this patent application was included in the list of patent applications to be allowed to go abandoned. This situation was not discovered until two weeks ago.”

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unintentional. Applicant has not presented any evidence of who considered this application to be included in the list of patent applications that is to go abandoned. Nor has applicant presented any evidence of how was the application discovered and determined for it not to be abandoned. Applicant needs to provide more information for clarification, such as the indicated list of the patent applications to be abandoned and statements from people having first hand knowledge of putting this application on the list for abandonment and of discovery that the application was abandoned.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **DISMISSED** as to the National Stage in the United States of America.

Applicant is hereby afforded **TWO (2) MONTHS** from the mailing date of this decision to submit appropriate evidence in accordance with 37 CFR 1.237(b).

Extensions of time may be obtained under 37 CFR 1.136(a).

The application papers will be retained in the PCT Legal Office pending response to this Decision. Failure to timely file a response to this Decision will result in holding of ABANDONMENT of this application.



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